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**University Rehabilitation Center of C-U, LLC and
American Federation of State, County and Municipal
Employees, Council 31, AFL-CIO. Cases
25-CA-256418 and 25-CA-261222**

June 10, 2021

DECISION AND ORDER

BY CHAIRMAN MCFERRAN AND MEMBERS KAPLAN
AND EMANUEL

The Acting General Counsel seeks a default judgment in this case on the ground that University Rehabilitation Center of C-U, LLC (the Respondent) has failed to file an answer to the complaint. Upon a charge and an amended charge in Case 25-CA-256418 filed by American Federation of State, County and Municipal Employees, Council 31, AFL-CIO (the Union) on February 14 and December 21, 2020, respectively, and a charge and an amended charge in Case 25-CA-261222 filed by the Union on June 3, 2020, and January 20, 2021, respectively, the Acting General Counsel issued a consolidated complaint and notice of hearing on January 27, 2021, against the Respondent, alleging that it has violated Section 8(a)(3), (5), and (1) of the Act. The Respondent failed to file an answer.

On April 9, 2021, the Acting General Counsel filed with the National Labor Relations Board a Motion to Transfer Case to the Board and for Default Judgment. On April 12, 2021, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that unless an answer is received on or before February 10, 2021, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the Acting General Counsel's motion disclose that the Region, by letter dated February 23, 2021 (which enclosed a copy of the complaint), advised the Respondent that unless an answer was received by March 9, 2021, a motion for default judgment

would be filed. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations of the complaint to be admitted as true, and we grant the Acting General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent has been an Illinois limited liability company with an office and place of business in Urbana, Illinois, and has been engaged in the business of operating a nursing home.

About April 1, 2019, the Respondent purchased the nursing home business of the Champaign County Board (County Board), and since then has continued to operate the nursing home business of County Board in basically unchanged form and has employed as a majority of its employees individuals who were previously employees of County Board.

Based on its operations described above, the Respondent has continued the employing entity and is a successor to County Board.

During the 12-month period preceding issuance of the complaint, the Respondent, in conducting its business operations described above, derived gross revenues in excess of \$100,000.

During the same 12-month period, the Respondent, in conducting its business operations described above, purchased and received at its Urbana, Illinois facility goods valued in excess of \$5000 directly from points outside the State of Illinois.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

1. (a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Dawn Job	-	Nursing Home Administrator
Heather Hahn	-	Director of Nursing
Kris Anguiano	-	HR Manager

(b) At all material times, the following individuals have engaged in collective bargaining with the Union on behalf

of the Respondent and have been agents of the Respondent within the meaning of Section 2(13) of the Act:

Erik Moscovitch
 Jake Gabay
 William “Avi” Rothner

2. (a) About May 29, 2020, the Respondent discharged its employee Felicia Newell.

(b) The Respondent engaged in the conduct described above in paragraph 2(a) because the named employee of the Respondent formed, joined, and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

3. (a) The following employees of the Respondent (the Professional Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees in the classification of Licensed Practical Nurse and Registered Nurse, and RAJ Specialist, excluding supervisory, managerial, and confidential employees.

(b) From an unknown date prior to January 1, 2017, to April 1, 2019, the Union has been the exclusive collective-bargaining representative of the Professional Unit employed by County Board, and during that time, the Union has been recognized as such representative by County Board. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective from January 1, 2017, through December 31, 2018.

(c) Since about April 1, 2019, based on the facts described above, the Union has been the designated exclusive collective-bargaining representative of the Professional Unit.

(d) From about an unknown date prior to January 1, 2017, to April 1, 2019, based on Section 9(a) of the Act, the Union had been the exclusive collective-bargaining representative of the Professional Unit employed by County Board.

(e) At all times since about April 1, 2019, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Respondent’s employees in the Professional Unit.

4. (a) The following employees of the Respondent (the Non-Professional Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All non-professional employees, specifically all employees in the following position titles: Accountant, Activities Assistant, Adult Day Service Assistant, Adult

Day Service Transportation Assistant, Assistant Care Plan Coordinator, Beauty Operator, Certified Occupational Therapist Assistant, Clerk-Central Supply, Cook, Food Service Worker, Housekeeper, Intermediate Housekeeper, Linen Service Worker, Maintenance Worker, Certified Nurse Assistant, Certified Nurse Assistant Team Leader, Occupational Therapy Aide, Physical Rehabilitation Aide, Physical Therapy Aide, Receptionist/Clerk Typist, Social Services Assistant, Medical Records Clerk, Unit Secretary, Int. Account Clerk-Medicare, Int. Account Clerk-Medicaid, Automated Information System Coordinator, Data Entry Operator, Int. Housekeeper-Security Officer, Nurse Assistant Trainee, Kitchen Steward, Volunteer Coordinator, and also regular full-time and part-time employees of said Departments hired or transferred into newly created classifications performing the work of the classifications enumerated herein.

(b) From an unknown date prior to January 1, 2017, to April 1, 2019, the Union has been the exclusive collective-bargaining representative of the Non-Professional Unit employed by County Board, and during that time, the Union has been recognized as such representative by County Board. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective from January 1, 2017, through December 31, 2018.

(c) Since about April 1, 2019, based on the facts described above, the Union has been the designated exclusive collective-bargaining representative of the Non-Professional Unit.

(d) From about an unknown date prior to January 1, 2017, to April 1, 2019, based on Section 9(a) of the Act, the Union had been the exclusive collective-bargaining representative of the Non-Professional Unit employed by County Board.

(e) At all times since about April 1, 2019, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Respondent’s employees in the Non-Professional Unit.

5. (a) Since around September 2019, the Respondent changed the weekend shift pay of employees in the Professional Unit and the Non-Professional Unit.

(b) The subject set forth above in paragraph 5(a) relates to wages, hours, and other terms and conditions of employment of the Professional Unit and the Non-Professional Unit and is a mandatory subject for the purposes of collective bargaining.

(c) The Respondent engaged in the conduct described above in paragraph 5(a) without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent with respect to this conduct and the

effects of this conduct and without first bargaining with the Union to an overall good-faith impasse for a collective-bargaining agreement.

6. (a) At various times since May 21, 2019, the Respondent and the Union met for the purposes of negotiating an initial collective-bargaining agreement with respect to wages, hours, and other terms and conditions of employment.

(b) During the period described above in paragraph 6(a), the Respondent engaged in the following conduct:

(i) refused to meet at reasonable times for bargaining, including by meeting only seven times and canceling four bargaining sessions during approximately the first nine months of bargaining, and by failing for over four months to meet or bargain at all;

(ii) failed and refused to provide any written contract proposals for approximately the first nine months of bargaining; and

(iii) engaged in the conduct described above in paragraphs 5(a) and 5(c).

(c) By its overall conduct, including the conduct described above in paragraph 6(b), the Respondent has failed and refused to bargain in good faith with the Union as the exclusive collective-bargaining representative of the bargaining units.

CONCLUSIONS OF LAW

1. By the conduct described above in paragraphs 2(a) and 2(b), the Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(3) and (1) of the Act.

2. By the conduct described above in paragraphs 5(a), 5(c), 6(b), and 6(c), the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1).

3. The unfair labor practices of the Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(3) and (1) of the Act by discharging employee Felicia Newell because she formed, joined, and assisted the Union and engaged in concerted activities, and to discourage other employees from engaging in these activities, we shall order

the Respondent to offer her full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights or privileges previously enjoyed. We shall also order that the Respondent make Newell whole, with interest, for any loss of earnings and other benefits suffered as a result of the unlawful discharge. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010).

In accordance with our decision in *King Soopers, Inc.*, 364 NLRB 1153 (2016), enfd. in relevant part 859 F.3d 23 (D.C. Cir. 2017), we shall also order the Respondent to compensate Newell for her search-for-work and interim employment expenses regardless of whether those expenses exceed interim earnings. Search-for-work and interim employment expenses shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Further, we shall order the Respondent to compensate Newell for any adverse tax consequences, if any, of receiving a lump-sum backpay award and to file a report with the Regional Director for Region 25 allocating the backpay award to the appropriate calendar year(s). *AdvoServ of New Jersey, Inc.*, 363 NLRB 1324 (2016). In addition to the backpay allocation report, we shall order the Respondent to file with the Regional Director for Region 25 a copy of Newell's corresponding W-2 form(s) reflecting the backpay award. *Cascade Containerboard Packaging*, 370 NLRB No. 76 (2021).

The Respondent shall also be required to remove from its files any reference to the unlawful discharge of Newell and to notify her in writing that this has been done and that the discharge will not be used against her in any way.

Having found that the Respondent violated Section 8(a)(5) and (1) of the Act by unilaterally changing the weekend shift pay of employees in the Professional Unit and the Non-Professional Unit without prior notice to the Union and without affording the Union an opportunity to bargain, we shall order the Respondent, on request by the Union, to rescind the change and retroactively restore the status quo, until the Respondent negotiates in good faith with the Union to agreement or impasse. In addition, the Respondent shall make its unit employees whole for any loss of earnings and other benefits suffered as a result of the change in weekend shift pay in the manner set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), enfd. 444 F.2d 502 (6th Cir. 1971), with interest at the rate

prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Further, we shall order the Respondent to compensate the affected employees for the adverse tax consequences, if any, of receiving a lump-sum backpay award and to file a report with the Regional Director for Region 25 allocating the backpay award to the appropriate calendar year(s) for each employee. *AdvoServ of New Jersey, Inc.*, 363 NLRB 1324 (2016). In addition, we shall order the Respondent to file with the Regional Director for Region 25 a copy of each backpay recipient's corresponding W-2 form(s) reflecting the backpay award. *Cascade Containerboard Packaging*, 370 NLRB No. 76 (2021).

Finally, having found that the Respondent has violated Section 8(a)(5) and (1) by failing and refusing to bargain collectively and in good faith with the Union by refusing to meet at reasonable times for bargaining, including by meeting only seven times and canceling four bargaining sessions during the first nine months of bargaining; failing for over four months to meet or bargain at all; and failing and refusing to provide any written contract proposals for approximately the first 9 months of bargaining, we shall order the Respondent, on request, to meet and bargain with the Union as the exclusive collective-bargaining representative of the unit employees with respect to wages, hours, benefits, and other terms and conditions of employment and, if an understanding is reached, to embody the understanding in a signed agreement.

ORDER

The National Labor Relations Board orders that the Respondent, University Rehabilitation Center of C-U, LLC, Urbana, Illinois, its officers, agents, successors, and assigns shall

1. Cease and desist from

(a) Discharging or otherwise discriminating against employees because they joined, formed, or assisted the Union and engaged in protected concerted activities, or to discourage other employees from engaging in these activities.

(b) Failing and refusing to bargain in good faith with the Union as the exclusive collective-bargaining representative of the employees in the bargaining units.

(c) Changing the terms and conditions of employment of its unit employees, including changing their weekend shift pay, without first providing notice to and bargaining in good faith with the Union to agreement or to impasse.

(d) Failing and refusing to meet with the Union at reasonable times for bargaining, including by canceling bargaining sessions and by failing for over 4 months to meet or bargain at all.

(e) Failing and refusing to provide written contract proposals to the Union.

(f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate units concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All employees in the classification of Licensed Practical Nurse and Registered Nurse, and RAJ Specialist, excluding supervisory, managerial, and confidential employees.

All non-professional employees, specifically all employees in the following position titles: Accountant, Activities Assistant, Adult Day Service Assistant, Adult Day Service Transportation Assistant, Assistant Care Plan Coordinator, Beauty Operator, Certified Occupational Therapist Assistant, Clerk-Central Supply, Cook, Food Service Worker, Housekeeper, Intermediate Housekeeper, Linen Service Worker, Maintenance Worker, Certified Nurse Assistant, Certified Nurse Assistant Team Leader, Occupational Therapy Aide, Physical Rehabilitation Aide, Physical Therapy Aide, Receptionist/Clerk Typist, Social Services Assistant, Medical Records Clerk, Unit Secretary, Int. Account Clerk-Medicare, Int. Account Clerk-Medicaid, Automated Information System Coordinator, Data Entry Operator, Int. Housekeeper-Security Officer, Nurse Assistant Trainee, Kitchen Steward, Volunteer Coordinator, and also regular full-time and part-time employees of said Departments hired or transferred into newly created classifications performing the work of the classifications enumerated herein.

(b) On request by the Union, rescind the change in the terms and conditions of employment for its unit employees of changing their weekend shift pay since about September 2019, and restore the status quo that previously existed until negotiating with the Union to agreement or impasse.

(c) Make the unit employees whole for any loss of earnings and other benefits suffered as a result of the unlawful unilateral change in weekend shift pay, in the manner set forth in the remedy section of this decision.

(d) Compensate the affected employees for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 25, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report

allocating the backpay award to the appropriate calendar year(s) for each employee.

(e) File with the Regional Director for Region 25 a copy of each backpay recipient's corresponding W-2 form(s) reflecting the backpay award.

(f) Within 14 days from the date of this Order, offer Felicia Newell full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or any other rights or privileges previously enjoyed.

(g) Make Felicia Newell whole for any loss of earnings and other benefits suffered as a result of the discrimination against her, in the manner set forth in the remedy section of this decision.

(h) Compensate Felicia Newell for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 25, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year(s).

(i) File with the Regional Director for Region 25 a copy of Felicia Newell's corresponding W-2 form(s) reflecting the backpay award.

(j) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of Felicia Newell, and within 3 days thereafter, notify her in writing that this has been done and that the discharge will not be used against her in any way.

(k) Preserve and, within 14 days of a request or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents all payroll records, social security payment records, timecards, personnel records and reports, and all other records including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(l) Post at its facility in Urbana, Illinois, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 25, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper

notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. The Respondent shall take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 21, 2019.

(m) Within 21 days after service by the Region, file with the Regional Director for Region 25 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. June 10, 2021

Lauren McFerran, Member

Marvin E. Kaplan, Member

William J. Emanuel, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

¹ If the facility involved in these proceedings is open and staffed by a substantial complement of employees, the notices must be posted within 14 days after service by the Region. If the facility involved in these proceedings is closed due to the Coronavirus Disease 2019 (COVID-19) pandemic, the notices must be posted within 14 days after the facility reopens and a substantial complement of employees have returned to work, and the notices may not be posted until a substantial complement of employees have returned to work. Any delay in the physical posting

of paper notices also applies to the electronic distribution of the notice if the Respondent customarily communicates with its employees by electronic means. If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT discharge or otherwise discriminate against any of you because you join or support American Federation of State, County and Municipal Employees, Council 31, AFL-CIO (the Union) or any other labor organization, or because you engage in protected concerted activities, or to discourage other employees from engaging in these activities.

WE WILL NOT fail and refuse to bargain in good faith with the Union as the exclusive collective-bargaining representative of our employees in the Professional Unit and the Non-Professional Unit.

WE WILL NOT unilaterally change your terms and conditions of employment without first notifying the Union and giving it an opportunity to bargain to agreement or impasse.

WE WILL NOT fail and refuse to meet with the Union at reasonable times for bargaining, including by canceling bargaining sessions and failing for over four months to meet or bargain at all.

WE WILL NOT fail and refuse to provide written contract proposals to the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, bargain with the Union as the exclusive collective-bargaining representative of our employees in the following appropriate units concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All employees in the classification of Licensed Practical Nurse and Registered Nurse, and RAJ Specialist, excluding supervisory, managerial, and confidential employees.

All non-professional employees, specifically all employees in the following position titles: Accountant, Activities Assistant, Adult Day Service Assistant, Adult Day Service Transportation Assistant, Assistant Care Plan Coordinator, Beauty Operator, Certified Occupational Therapist Assistant, Clerk-Central Supply, Cook, Food Service Worker, Housekeeper, Intermediate Housekeeper, Linen Service Worker, Maintenance

Worker, Certified Nurse Assistant, Certified Nurse Assistant Team Leader, Occupational Therapy Aide, Physical Rehabilitation Aide, Physical Therapy Aide, Receptionist/Clerk Typist, Social Services Assistant, Medical Records Clerk, Unit Secretary, Int. Account Clerk-Medicare, Int. Account Clerk-Medicaid, Automated Information System Coordinator, Data Entry Operator, Int. Housekeeper-Security Officer, Nurse Assistant Trainee, Kitchen Steward, Volunteer Coordinator, and also regular full-time and part-time employees of said Departments hired or transferred into newly created classifications performing the work of the classifications enumerated herein.

WE WILL, on request of the Union, rescind our change in your terms and conditions of employment of changing your weekend shift pay since about September 2019, and restore the status quo that previously existed until we negotiate in good faith with the Union to agreement or impasse.

WE WILL make the affected employees whole for any loss of earnings and other benefits suffered as a result of our unlawful unilateral change in weekend shift pay, plus interest.

WE WILL compensate the affected employees for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file with the Regional Director for Region 25, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year(s) for each employee.

WE WILL file with the Regional Director for Region 25 a copy of each backpay recipient's corresponding W-2 form(s) reflecting the backpay award.

WE WILL, within 14 days from the date of the Board's Order, offer Felicia Newell full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position without prejudice to her seniority or any other rights or privileges previously enjoyed.

WE WILL make Felicia Newell whole for any loss of earnings and other benefits resulting from her discharge, less any net interim earnings, plus interest, and WE WILL also make her whole for reasonable search-for-work and interim employment expenses, plus interest.

WE WILL compensate Felicia Newell for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file with the Regional Director for Region 25, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year(s).

WE WILL file with the Regional Director for Region 25 a copy of Felicia Newell's corresponding W-2 form(s) reflecting the backpay award.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to our unlawful discharge of Felicia Newell and WE WILL, within 3 days thereafter, notify her in writing that this has been done and that the discharge will not be used against her in any way.

UNIVERSITY REHABILITATION CENTER OF C-U,
LLC

The Board's decision can be found at www.nlrb.gov/case/25-CA-256418 or by using the QR

code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

